

142 FERC ¶ 61,114
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Pacific Gas and Electric Company

Docket No. ER13-613-000

ORDER ON TARIFF REVISIONS AND REQUEST FOR WAIVERS

(Issued February 15, 2013)

1. On December 21, 2012, Pacific Gas and Electric Company (PG&E) filed its annual update to the Transmission Access Charge Balancing Account Adjustment (TACBAA) in its transmission owner tariff (TO Tariff).¹ In this order, we grant waiver of the Commission's prior notice requirements,² grant PG&E's request for waiver of section 5.7 of its TO Tariff, and accept PG&E's proposed tariff revisions to be effective May 1, 2013.

TACBAA Filing

2. The TACBAA is a ratemaking mechanism designed to ensure that the difference in the amount of costs billed to PG&E as a load-serving entity and the revenues paid to PG&E as a participating transmission owner under the California Independent System Operator Corporation's (CAISO) tariff are recovered from or returned to PG&E's end-use customers. PG&E explains that this year's update to its TACBAA rate is based on the balance in its Transmission Access Charge Balancing Account as of December 31, 2012, and a forecast of the net annual access charge billings by CAISO to PG&E for the 2013 calendar year. PG&E states that the updated TACBAA rate consists of four components: (1) the balance of the Transmission Access Charge Balancing Account as of December 31, 2012, (2) the interest balance for the Transmission Access Charge Balancing Account, (3) the forecasted Transmission Access Charge Balancing Account

¹ On February 5, 2013, PG&E filed supplemental information correcting a mathematical error which appeared in both PG&E's transmittal letter and the testimony of PG&E witness Erik Menzel. *See* PG&E February 5, 2013 Supplemental Information.

² *See* 18 C.F.R. § 35.3.

costs and customer usage volumes for 2013, and (4) franchise fees and uncollectible accounts.³

3. To develop the new 2013 TACBAA rate, PG&E calculated its total revenue requirement as the sum of (1) the balance of the Transmission Access Charge Balancing Account as of December 31, 2012 of \$213,778; (2) the interest balance for the Transmission Access Charge Balancing Account of \$6,783,409; (3) the forecasted Transmission Access Charge Balancing Account costs for 2013 of \$334,649,372; and (4) the franchise fees and uncollectible accounts adjustment of \$3,686,366. PG&E states that the resultant revenue requirement for the 2013 TACBAA is \$345,332,925, which yields a corresponding rate of \$0.00403/kWh. PG&E explains that the 2013 TACBAA rate represents an increase from the 2012 TACBAA rate of \$0.00314/kWh.⁴

4. PG&E requests a one-time waiver of section 5.7 of its TO Tariff so that its 2013 TACBAA rates will become effective May 1, 2013. PG&E explains that section 5.7 of its TO Tariff requires it to revise the TACBAA to be effective March 1 of each year.⁵ PG&E explains that May 1, 2013, corresponds to the date that the changes to its base transmission rates become effective.⁶ PG&E states that it strives to minimize the number of rate changes that its retail customers are exposed to each year and that its retail customers will experience one less rate change if the Commission allows the TACBAA and its base transmission rates to become effective on the same day, May 1, 2013.⁷

5. According to PG&E, the Commission grants limited waiver requests when the waiver (1) is limited in scope; (2) there are no undesirable consequences to granting the waiver; and (3) the benefits to the customers in granting the waiver are evident.⁸ PG&E argues that its request for waiver meets these criteria because the waiver is limited in scope, as it delays the effective date by two months for only the 2013 calendar year. PG&E also contends that, because it updates the TACBAA each year, the waiver will not

³ PG&E Transmittal Letter at 1.

⁴ *Id.* at 1-2.

⁵ *Id.* at 2. However, section 5.7 of its TO Tariff does not prevent PG&E from filing revisions to the TACBAA pursuant to section 205 of the Federal Power Act (FPA) at any other time.

⁶ On November 29, 2012, the Commission accepted PG&E's 14th TO Tariff filing (TO14) and suspended the proposed rates for five months, to be effective May 1, 2013, subject to refund. *Pacific Gas and Electric Co.*, 141 FERC ¶ 61,168 (2012).

⁷ PG&E Transmittal Letter at 2.

⁸ *See, e.g., Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132, at P 14 (2010).

result in the undesirable consequence of under- or over-collecting TACBAA revenues. Finally, PG&E claims that the waiver will not harm customers, as minimizing the number of rate changes will make it easier for customers to track rate changes.⁹

6. PG&E also requests waiver of the Commission's notice requirements to permit its filing of its 2013 TACBAA rates more than 120 days in advance of the proposed effective date, May 1, 2013. PG&E explains that the TACBAA filing was submitted under its traditional timeframe to ensure that it could institute the new rate in a timely manner in the event that the Commission denies its request for waiver of section 5.7 of its TO Tariff. If the Commission chooses to grant its request for waiver of section 5.7 of its tariff, PG&E explains that it submitted the instant filing more than 120 days prior to the requested effective date and, thus, waiver of the 120-day notice requirement is necessary to permit the May 1, 2013 effective date.¹⁰

7. Finally, PG&E requests that the Commission issue an order ruling on its proposed 2013 TACBAA rates on or before February 15, 2013, so that, in the event that the Commission does not grant its requested waivers, PG&E can begin the internal testing procedures for implementing rate changes in its billing system to be effective March 1, 2013.¹¹

Notice

8. Notice of PG&E's TACBAA Filing was published in the *Federal Register*, 78 Fed. Reg. 296 (2013), with protests or interventions due on or before January 11, 2013. A timely motion to intervene was filed by Trans Bay Cable, LLC.

Commission Determination

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. We accept PG&E's proposed revisions to its TACBAA rates. Our review of the proposed revisions indicates that PG&E's projected costs are consistent with the definitions of those costs that are included in its TO Tariff.

⁹ PG&E Transmittal Letter at 2-3.

¹⁰ *Id.* at 3.

¹¹ *Id.*

11. The Commission historically has granted certain waiver requests involving an emergency situation or an unintentional error.¹² Waiver, however, is not limited to those circumstances. For example, in several recent cases, the Commission has found good cause to grant waiver where the waiver is of limited scope, where there are no undesirable consequences, or where there are resultant benefits to customers.¹³ As discussed below, we find good cause to grant PG&E's request for waiver of section 5.7 of its TO Tariff, and accept the proposed tariff revisions to be effective, May 1, 2013, as requested.

12. We find that PG&E's request for waiver is of limited scope, as it applies only to its 2013 TACBAA rates and delays the effectiveness of the revised rates by only two months. We agree with PG&E that this waiver will not result in undesirable consequences, and note that the Commission received no protests or adverse comments from market participants regarding the revised rates. Finally, we find that PG&E's request for waiver will benefit customers by limiting the number of rate changes in 2013.

13. Similarly, we grant PG&E's request for waiver of the Commission's requirement that parties submit changes to rate schedules or tariffs no more than 120 days prior to the date that the rates will become effective. Previously, the Commission has stated that the prohibition against filings made more than 120 days prior to the effective date is intended to insure that, when the Commission evaluates a proposed rate, the cost data reflecting the time period when the rate will be effective will not be highly speculative.¹⁴ We agree that because PG&E updates its TACBAA each year, neither its request for waiver of section 5.7 of its tariff nor the Commission's 120-day notice requirement will result in the under- or over-collection of revenues from its transmission customers. Therefore, we will grant waiver of the 120-day notice requirement and accept PG&E's 2013 TACBAA rates to be effective May 1, 2013.

¹² See, e.g., *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (granting limited and temporary change to tariff to correct an error); *Great Lakes Gas Transmission LP.*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving *force majeure* event for good cause shown); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

¹³ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226 (2007); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 (2008); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132 (2010); *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,020 (2010); *Arizona Public Serv. Co.*, 140 FERC ¶ 61,094 (2012).

¹⁴ *Allegheny Generating Company*, 29 FERC ¶ 61,177 (1984).

The Commission orders:

(A) PG&E's request for waiver of section 35.3 of the Commission's regulations is hereby granted.

(B) PG&E's request for waiver of section 5.7 of its TO Tariff is hereby granted.

(C) PG&E's annual update to its transmission access charge balancing account adjustment is hereby accepted, effective May 1, 2013, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.